

**Advance Questions for Mr. John P. Woodley, Jr.**  
**Nominee for the Position of Assistant Secretary of the Army for Civil Works**

**Defense Reforms**

**You previously have answered the Committee's advance policy questions on the reforms brought about by the Goldwater-Nichols Act in connection with your nomination in 2003 to be the Assistant Secretary of the Army for Civil Works.**

**Have your views on the importance, feasibility, and implementation of the Goldwater-Nichols Act reforms changed since you testified before the Committee at your confirmation hearing on February 27, 2003?**

**Answer:** No, my views have not changed. I continue to support full implementation of the Goldwater-Nichols Act, which strengthens civilian control; improves military advice; places clear responsibility on the combatant commanders for the accomplishment of their missions; ensures the authority of the combatant commanders is commensurate with their responsibility; increases attention to the formulation of strategy and to contingency planning; provides for more efficient use of defense resources; enhances the effectiveness of military operations; and improves the management and administration of the Department of Defense.

**Do you see the need for modifications of any Goldwater-Nichols Act provisions based on your previous experience as Assistant Secretary of the Army for Civil Works? If so, what areas do you believe it might be appropriate to address in these modifications?**

**Answer:** Based on my previous experience as Assistant Secretary of the Army (Civil Works), I see no need for modification of any provisions of the Goldwater-Nichols Act. The Goldwater-Nichols Department of Defense Reorganization Act is as relevant today as it was in 1986 when enacted.

**Duties**

**In your response to previous advance policy questions submitted in February 2003, you stated your understanding of the duties and functions of the Assistant Secretary of the Army for Civil Works.**

**Based on your experience in the Department since that time, what changes, if any would you make to your original response?**

**Answer:** Section 3016 of Title 10 of the United States Code and Department of the Army General Orders No. 3 remain in effect and the duties of the Assistant Secretary of the Army (Civil Works) remain as stated in those documents, which I summarized in my previous answer. There is one modification to the Assistant Secretary's responsibilities with regard to Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery. That change now is codified in Department of the Army General Orders No. 13, dated October 29, 2004, which replaces an 18-year-old General Order. General Orders No. 13 assigns overall supervision of Arlington National Cemetery to the Under Secretary of the Army and clarifies that the Superintendent of Arlington National Cemetery reports directly to the Assistant Secretary of the Army (Civil Works) on the execution of the program of the Cemetery, including administration, operation and maintenance. The Assistant Secretary of the Army (Manpower and Reserve Affairs) remains responsible for burial policy.

**What recommendations, if any, do you have for changes in the duties and functions of the Assistant Secretary of the Army for Civil Works, as set forth in section 3016 of Title 10, United States Code, and in regulations of the Department of Defense and Department of the Army?**

**Answer:** I believe the duties and functions of the Assistant Secretary of the Army (Civil Works) are clearly and properly assigned in the above-referenced documents. During my previous service as Assistant Secretary of the Army (Civil Works) I recommended changes in oversight of Arlington National Cemetery, and those recommendations are reflected in the new General Orders No. 13, dated October 29, 2004.

**Assuming you are confirmed, what duties do you expect that the Secretary of the Army would prescribe for you?**

**Answer:** If I am confirmed, I expect to carry out the duties and functions of the Assistant Secretary of the Army (Civil Works) as articulated in General Orders No. 3, dated July 9, 2002, and General Orders No. 13, dated October 29, 2004. In addition, I expect to support and assist the Secretary of the Army in carrying out critical Departmental responsibilities, including Continuity of Operations.

## **Relationships**

**If confirmed, what would your working relationship be with:**

### **The Secretary of the Army**

**Answer:** I will work closely with the Secretary of the Army in furthering the goals and priorities of the President. Consistent with the General Orders, I expect the Secretary to rely on me to oversee the Civil Works program of the U.S. Army

Corps of Engineers, and the programs of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery.

**The Under Secretary of Defense for Logistics and Materiel Readiness**

**Answer:** I will work through the Secretary of the Army to form a close and constructive relationship with the Deputy Under Secretary of Defense (Logistics, Materiel Readiness) in areas of mutual interest.

**The Under Secretary of the Army**

**Answer:** I will work closely with the Under Secretary of the Army in furthering the goals and priorities of the President and the Secretary of the Army, including Army national cemetery program. Under General Orders 13, October 29, 2004, the Under Secretary is responsible for overall supervision of the program, and the Assistant Secretary of the Army (Civil Works) is responsible for supervision of the program and budget.

**Deputy Under Secretary of Defense for Installations and Environment**

**Answer:** Having worked for the Deputy Under Secretary of Defense for Installations and Environment, I am very aware of the responsibilities of the position and look forward to a constructive relationship, working through the Secretary of the Army, in areas of mutual interest.

**The Assistant Secretary of Defense for Homeland Defense**

**Answer:** I will work through the Secretary of the Army to form a close and constructive relationship with the Assistant Secretary of Defense for Homeland Defense to ensure that the full array of assets of the U.S. Army Corps of Engineers is available to support the national defense, including the engineering and technical management and emergency response and recovery capabilities associated with the Army Civil Works Program.

**The Assistant Secretary of the Army for Installations and Environment**

**Answer:** I will work to form a close and constructive relationship with the Assistant Secretary of the Army (Installations and Environment) in areas of mutual interest.

**The Chief of Staff of the Army and the Army Staff**

**Answer:** I will establish and maintain a close, professional relationship with the Chief of Staff as he performs his duties as the senior military leader of the Army.

**The Commander, U. S. Army Corps of Engineers and Chief of Engineers**

**Answer:** I believe the relationship between the Assistant Secretary of the Army (Civil Works) and the Chief of Engineers that best serves the interests of the nation is the one based on mutual respect, trust and cooperation. Both positions have enormous responsibilities and demand great attention to very complex issues. During my previous service, the current Chief of Engineers, LTG Carl A.

Strock, and I established such a relationship and I fully expect it to grow stronger. Our respective abilities to be responsive to the President's priorities and to the policy directives of Congress depend greatly on the success of this relationship.

**The General Counsel of the Army.**

**Answer:** My relationship with the General Counsel of the Army must involve close and regular consultation, given the legal complexities of the Civil Works program of the U.S. Army Corps of Engineers. During my previous service, I had such a close and constructive relationship with the General Counsel of the Army and, if confirmed, I will work to continue and strengthen that relationship.

**The Judge Advocate General of the Army.**

**Answer:** If confirmed, I would maintain a constructive relationship with the Judge Advocate General of the Army in areas of mutual interest.

**The State Governors**

**Answer:** The Army and its U.S. Corps of Engineers must remain committed to working cooperatively with Governors and local authorities for the benefit of local citizens and for sustainable development and protection of the nation's natural resources. These cooperative efforts must be undertaken in the context of civil works authorities and legal responsibilities. These responsibilities often require a balancing of diverse interests. The proper reconciliation of these interests demands open communication among all parties. I am committed to establishing and maintaining a full and open dialogue with the Governors on all issues of mutual interest.

**Major Challenges and Problems**

**In your responses to previous advance policy questions submitted in February 2003, you identified as major challenges that would confront the Assistant Secretary of the Army for Civil Works the need to maintain the Corps of Engineers' existing infrastructure, the need to repair the damaged environment, and the need to ensure the physical security of the Corps' infrastructure around the country.**

**What do you consider to be your most significant achievements in meeting these challenges during your previous service as Assistant Secretary?**

**Answer:** During my previous service as Assistant Secretary of the Army (Civil Works) advances were made in addressing each of the three major challenges I identified in February 2003.

Concerning the need to maintain existing Corps infrastructure, the Fiscal Year 2006 budget includes more funding for Civil Works operation, maintenance,

rehabilitation, and protection than any prior Civil Works budget -- \$2.353 billion. We held down operations costs in order to apply more funding to project maintenance, and then prioritized potential maintenance expenditures based on its criticality to the reliable, safe, and efficient performance of the navigation and flood damage reduction facilities operated by the Corps. Finally, we have reached agreement within the Administration to explore, in conjunction with the development of the Fiscal Year 2007 budget, ways to improve the manner in which the budget funds major rehabilitation projects at Corps hydropower, inland navigation and flood damage reduction facilities, in order to ensure that funding is provided to those new and continuing major rehabilitation projects that yield a high economic return per dollar invested.

In my previous service as Assistant Secretary of the Army (Civil Works), we advanced several major ecosystem restoration programs and achieved a greater focus on environmental restoration both in planning new projects and in operating existing projects. We have finalizing the Programmatic Regulations for the Comprehensive Everglades Restoration Plan, produced the Louisiana Coastal Area Restoration Plan, and, after more than a decade of difficult work, implemented a new Master Manual for the operation of the Missouri River System that includes significant ecosystem restoration components. As Assistant Secretary, I emphasized that all our restoration efforts must be informed by good science and broad public participation.

Concerning physical security of Corps' infrastructure, I was successful in gaining Administration support for \$84 million in Fiscal Year 2005 and \$72 million in Fiscal Year 2006 to continue implementing security measures for Corps of Engineers projects and facilities.

**Have these challenges changed since your appointment in August, 2003, and, if confirmed, what are your plans for addressing the challenges you now anticipate?**

**Answer:** Those challenges continue, and I would add two more: improving the Corps regulatory program and improving the Corps planning process.

In the past 18 months I have gained a much greater appreciation for the scope and importance of the U.S. Army Corps of Engineer's Regulatory Program. This program protects the nation's precious aquatic resources. In more than 80,000 separate actions each year, hundreds of billions of dollars of the nation's life-sustaining enterprise must receive the Corps' scrutiny through its Section 404 permit process. We must meet the challenge of serving the economic and environmental interests of our nation with effectiveness and efficiency. As Assistant Secretary I have and, if I am confirmed, will continue to emphasize predictability and consistency as the hallmarks of a good regulatory program. From both my prior experience as Assistant Secretary and my experience as

Virginia's Secretary of Natural Resources I know that, with attention and commitment, business can be conducted in a way that makes sense for the environment.

In my previous service as Assistant Secretary, I began to implement a concept of designating one Corps district as lead regulatory district in each State, responsible for maintaining a close liaison with the State permitting authorities and ensuring State-wide consistency within the regulatory program. If confirmed, I intend to pursue interagency initiatives to improve the Civil Works business processes, like the one recently signed with the Office of Surface Mining that establishes parallel, rather than sequential, review of permit applications. And finally, where there are common-sense solutions available to help solve ecosystem problems like water quality or habitat degradation, we will try to create regulatory incentives to getting those solutions implemented.

Our nation relies on the Corps to protect aquatic resources while allowing important economic development activities to proceed. The Corps annually performs over 100,000 wetlands jurisdictional determinations. As pointed out by the National Academy of Science, ensuring jurisdictional practices are consistent across the country has been a major challenge, especially since the Supreme Court's decision in the "SWANCC" case. We are working diligently with the Corps to collect information on jurisdictional practices to better understand the circumstances where consistency issues arise, and address them. If confirmed, I will work with the Corps and other agencies in developing internal guidance that will improve consistency of jurisdictional determinations across the nation.

We can improve the Corps' planning process by completing the establishment of Centers of Expertise to efficiently handle independent technical review of Corps projects, economic model verification, and the issues surrounding Corps Reform. If confirmed, I am committed to work with the Administration and Congress to make business process improvements allowing for an orderly and effective water resources development program for the nation

## **Priorities**

**In your responses to previous advance policy questions submitted in February 2003, you identified working to ensure effective management and administration of the Army Civil Works Program and the Army's national cemetery program as one priority you would have. Additionally, you identified as a priority seeking ways to more efficiently use resources in the development and execution of programs to ensure that taxpayers' dollars are wisely spent.**

**What do you consider to be your most significant achievements in addressing these priorities during your previous service as Assistant Secretary?**

**Answer:** Last year I established three overarching priorities. First, identify clear programmatic goals for all major Corps mission areas. These goals form the basis for building and defending a performance-based budget. Second, seek continuous improvement in the analytical tools employed by the Corps to support decision-making. While the Corps generally does a good job in this area, it can always do better. Third, improve the effectiveness and efficiency of the regulatory program. This program touches virtually every community in America and protects many valuable aquatic resources.

There have been significant advances in all three areas.

In March 2004, the Corps issued its Civil Works Strategic Plan, setting out the agency's objectives in each of its major mission areas. With this Strategic Plan as a guide, the Corps has instituted a performance-based budgeting system for the Civil Works program and used performance principles in developing of the Fiscal Year 2006 President's Budget for Civil Works.

To streamline project implementation, new model Project Cooperation Agreements have been developed, including one for navigation projects and one for environmental infrastructure assistance programs. Up-to-date model Project Cooperation Agreement support the delegation of oversight of this process, with resulting efficiency in the process, while still preserving national consistency, policy compliance and legal sufficiency.

The Corps has entered into a Memorandum of Understanding with the American Association of Port Authorities, establishing shared partnership principles to guide Army and public ports in developing and maintaining the nation's ports and harbors.

In May 2004, a cooperative agreement with the Netherlands Rijkswaterstaat was reached, leading to great benefits from exchanges between two of the world's most respected water resources agencies.

Corps Divisions have been delegated the authority to approve post-authorization decision documents that comply with policy and are below the threshold requiring reauthorization.

This past year, I have made the regulatory program a priority by encouraging performance based budgeting, participating in memorandums of agreement to achieve efficiencies when processing permits for energy projects (Deepwater Ports, Linear Transmission Projects, Joint 404-SMCRA Procedures), establishing lead Corps Districts in each state, and providing guidance on compensatory mitigation projects.

A survey of Corps districts has identified key areas of greatest variance between their practices on making regulatory jurisdictional determinations. The Corps has adopted a new method for reporting determinations of non-jurisdiction to enable direct comparisons of practices among its districts.

The Corps has developed and implemented a nine-point plan and brochure to help the mining industry in Appalachia comply with the Clean Water Act through guidance, educational workshops, and processing a large permit application backlog caused by litigation. In the process the Corps issued clarifying guidance pertaining to mitigation of the effects of mountaintop surface coal mining to promote a watershed perspective, allow for consideration of SMCRA features as part of overall mitigation plans, and to make it clear that conservation easements are not an absolute requirement for every site.

The past year has also brought to fruition several major actions. After 13 years of effort, the Corps has issued a newly revised Master Manual governing operation of the Missouri River system. The revised Master Manual is a marked improvement over the 1979 Master Manual and has already sustained judicial scrutiny in one U.S. District Court.

The Corps also issued programmatic regulations for the Comprehensive Everglades Restoration Program (CERP). These rules establish the multi-agency program that will develop, integrate, implement and monitor the extremely complex environmental restoration efforts in South Florida.

The Corps also has advanced important studies concerning both the restoration and navigation on the upper Mississippi River, and the loss of wetlands in the Louisiana Coastal area.

Under my leadership, the Civil Works program has made great strides in improving effectiveness of its use of resources. For the six initiatives in the President's Management Agenda that apply to Civil Works, progress is "green" on four and "yellow" on two. This signifies that the Corps is improving its management of human capital, beginning to achieve efficiencies through competitive sourcing and the better use of e-government and real property management tools, basing budget decisions on economic returns and other performance metrics, and addressing audit and other financial management issues. In particular, the Corps has made great strides in basing the Fiscal Year 2006 budget on performance. Funding in the FY 2005 and FY 2006 budgets was allocated by business program with a nation-wide view, so that the most important work in each program received funding. In the FY 2006 budget, additional steps were taken to concentrate funding for studies, design, and construction on the work likely to yield the highest returns. In addition, the Fiscal Year 2006 budget includes more funding for Civil Works construction,



rehabilitation, operation, maintenance, and protection than any other budget in history. Finally, the Corps has achieved strong ratings for its recreation, emergency management, and regulatory programs, with the result that these programs have been budgeted at very healthy levels.

**If confirmed, what priorities would you establish, and what would be your plans for addressing them?**

**Answer:** If confirmed, I will continue to pursue the priorities I stated during my prior service: Establish clear programmatic goals for all major Corps mission areas; improve the analytical tools employed by the Corps to support decision-making; and Improve the effectiveness and efficiency of the regulatory program.

I would pursue the goal of establishing clear performance goals, in part, through the initiatives of the President's Management Agenda, as follows:

- For human capital, make significant progress in reducing hiring time lags and integrate the accountability system into decisions.
- For competitive sourcing, plan for and carry out competitions as scheduled.
- For financial management, resolve audit issues.
- For e-government, establish an effective Enterprise Architecture, adhere to cost and schedule goals, secure currently unsecured IT systems, and implement applicable e-government initiatives.
- For budget - performance integration, improve the linkages between the strategic plan and performance, and improve performance metrics used in budget decisions.
- For real property asset management, develop and obtain approval of an asset management plan, an accurate and current asset inventory, and real property performance measures.

My plan, if I am confirmed, for addressing the challenge of improving the Corps' analytic tools is to place a high priority on completing economic modeling efforts now underway and to work closely with the Chief of Engineers to address the issues that arose in the National Research Council's Reports on the planning process conducted under Section 216 of WRDA 2000. I also would work closely with the Chief of Engineers in further streamlining the planning process and establishing a workable framework for independent review of complex and controversial Corps' studies.

We have increased the President's Budget for the Corps regulatory program from \$144 million for Fiscal Year 2004 (\$140 million of which was appropriated), to \$150 million for Fiscal year 2005 (\$145 million of which was appropriated), to \$160 million for Fiscal Year 2006. If confirmed, I will continue to make the regulatory program a priority by supporting the National Wetlands Mitigation Action Plan, developing regional general permits for mining and aquaculture

activities, and supporting efforts to develop regional field indicators that will help Corps regulators make consistent, predictable jurisdictional determinations in the arid southwest and Alaska. Over \$200 billion of economic development depends upon the work of about 1,200 Corps regulators in 38 Districts.

### **Civilian Oversight of the Army Corps of Engineers**

**In your responses in February 2003, you described the relative authorities of the Chief of Engineers, the Assistant Secretary of the Army for Civil Works, the Secretary of the Army, the Army Chief of Staff, and the Secretary of Defense with regard to the civil works function of the Army Corps of Engineers. You indicated that you would seek ways for the Corps to become more innovative and creative, not only in domestic civil works and emergency responses, but also in the Nation's vital national security interests.**

**Since your appointment in August 2003, what changes, if any, have taken place in the manner in which the Chief of Engineers and the Corps and the Assistant Secretary of the Army for Civil Works interact?**

**Answer:** I am extremely pleased with the strong working relationship I have with both the Chief of Engineers and the Director of Civil Works. My experience during my previous service as Assistant Secretary has confirmed my initial belief and confidence in the integrity, commitment and engineering excellence of these general officers.

**Are there additional changes you would seek to implement, if confirmed?**

**Answer:** If confirmed, I would seek to strengthen the vertical and horizontal team concept emphasized in the Corps 2012 plan. Under this concept, concerns and issues are raised early in the development of projects, and a virtual or actual team is convened involving all levels of the organization that can contribute to early and final resolution of the issues. If confirmed, I would seek to promote this concept further by including the Office of the Assistant Secretary of the Army (Civil Works) in more cases, expediting the planning and design of projects, developing the Administration position on these projects, executing project cooperation agreements, and resolving concerns of Members of Congress that are brought to my attention.

### **Relations with Congress**

**The duties of the Assistant Secretary of the Army for Civil Works often involve issues of great significance to local communities, state governments, and the Senators and Congressmen who represent them in Congress.**

**What is your assessment of the ability of the civilian and military leadership of the Army Corps of Engineers to respond to requests for support for state and local projects advanced by elected officials?**

**Answer:** The Corps is unparalleled in providing disaster assistance and emergency preparedness. The Corps is well poised to support and respond to state and local requests not only in dealing with natural disasters, but also in responding to the nation's water resources development needs. Throughout my previous service as Assistant Secretary, I often heard praise for the Corps disaster assistance and emergency response efforts from leaders in state and local governments.

### **Analysis of Army Corps of Engineer Projects**

**What is your view of the degree of independence that should be provided to the economists charged with assessing the economic viability of Corps projects and the role of the senior civilian and military leadership of the Corps in reviewing the work of those economists?**

**Answer:** In my previous response, I stated that the technical and policy review process followed by the U.S. Army Corps of Engineers in managing feasibility studies needs to ensure that the many professionals who are involved in those studies are afforded an appropriate level of independence. I continue to strongly believe that Corps professionals at all levels need to follow established regulations, procedures, and policies in determining whether a project is, or is not, economically justified. Like any other organized system of analysis, the integrity of the process is critically dependent on all Corps of Engineers professionals doing their jobs in analyzing, assessing, and providing the documentation upon which the merits of a proposed Civil Works project may be weighed. The role of the senior civilian or military leadership is to ensure the integrity of the system to provide an independent policy, legal, and technical assessment of each proposed project, and then to rely on that documentation as the basis for their recommendations to policy decision-makers to accept, reject, or modify a proposed action transparently.

**In October 2003, the General Accounting Office released a report about a flood protection project in Sacramento, California which concluded that the Corps did not fully analyze, or report to Congress in a timely manner, the potential for significant cost increases. In this case, costs rose from \$44 million to over \$270 million and resulted in a lack of funding to carry out a substantial portion of the original scope of work.**

**If confirmed, what steps would you take to ensure Congress is properly notified of cost overruns and potential changes to the scope of work for specifically authorized projects?**

**Answer:** This is a matter of keen interest to me. If I am confirmed, I will continue to work with the Chief of Engineers to ensure that proper risk-based engineering analysis is performed during the feasibility phase, commensurate with the degrees of uncertainty that could occur in the future with-project conditions. Further, if confirmed, I will work with the Corps to place as much emphasis on costs as is placed on the benefit side of the equation. The Corps has made great strides in implementation of its MCACES cost estimating system. However, we must continue to provide updated tools that will enable the Corps cost estimators to determine, with reasonable assurance and during the feasibility phase of the study, the expected construction and real estate costs of potential projects. Whenever, despite these efforts, cost increases or potentially significant changes to the scope of work of projects occur, I will work with the Chief of Engineers to ensure that Congress is promptly notified.

**If confirmed, would you adhere to existing Corps policy that the Corps seek new spending authority from Congress if it determines, before issuing the first contract, that the Corps cannot complete the project without exceeding its spending limit?**

**Answer:** Yes, if confirmed, I would adhere to that policy, which is well founded. For projects already underway, the intent behind the Corps policy is to ensure that contractual commitments can only be made up to the point of the cost limit established pursuant to Section 902 of the Water Resources Development Act of 1986. Any potential contract causing the "902" cap to be exceeded would not be advertised for bid solicitation until new authority was received. Similarly, a contract would not be awarded if, at the point of issuing the first contract on a new construction project, it is known that the project would exceed the "902" limit

## **Contracting for the Reconstruction of Iraq**

**Over the last two years, the Army Corps of Engineers has played a major role in executing and managing contracts for the reconstruction of Iraq. The reconstruction effort has run into considerable difficulties due in large part to the ongoing insurgency and related security problems in Iraq.**

**What lessons have you learned about the ability of the Army Corps of Engineers and its contractors to execute large-scale construction projects in a dangerous environment?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**Do you believe that the Army Corps has had the full range of personnel in the field that it has needed to ensure proper oversight of these projects, or has oversight been hampered by the security situation on the ground?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**What impact do you believe that security costs have had on the ability of the Army Corps of Engineers and its contractors to complete their reconstruction mission in Iraq? What additional steps, if any, do you believe that Army Corps could take to reduce these costs?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned

to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**Do you believe that the Department of Defense is in a position to ensure the safety of contractor employees working under Army Corps contracts in Iraq? What additional steps, if any, do you believe that DOD or the Army Corps should take to ensure the safety of contractor employees?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**What is your understanding of the current legal status of private security employees hired by Army Corps contractors in Iraq? Do you believe that additional legislation is needed to clarify the legal status and responsibility of security contractors in areas like Iraq?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**What will be the continuing role of the Army Corps of Engineers in the execution and management of contracts for the reconstruction of Iraq, in view of last month's elections and the transition to Iraqi sovereignty?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign

lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**In your view, can current practices and processes in construction management conducted by the Corps benefit from a study of private sector methods and trends to seek innovative ways to improve the efficiency and customer response in military design and construction?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

### **Contracts for the Reconstruction of the Iraqi Oil Industry**

**Two years ago, the Army Corps of Engineers was designated the executive agent for Iraqi oil infrastructure reconstruction. Because of urgent and compelling circumstances and in compliance with the Competition in Contracting Act, an April 2003 sole-source award was made for a "bridge" contract to reconstruct the Iraqi oil industry prior to the award of a competitive follow-on contract in January 2004. The Corps of Engineers stated that it would limit orders under the "bridge" contract "to only those services necessary to support the mission in the near term."**

**Can you describe the urgent and compelling circumstances that led to the award of the "bridge" contract, the reason why this contract had a 2-year term and an estimated value of \$7 billion, and the steps the Army Corps of Engineers took to limit work under this contract prior to the award of the competitive follow-on contract?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned

to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**On January 13, 2004, the Defense Contract Audit Agency (DCAA) sent a memorandum to the Army Corps of Engineers alerting that its contractor on the Iraqi oil reconstruction contract did not have appropriate systems in place to estimate the costs of its work in Iraq. Three days later, the Army Corps awarded a new, competitive \$1.2 billion contract with the company to continue its work on the reconstruction of the Iraqi oil industry. The source selection document indicates that the contractor was given a perfect score in the competition for its estimating system.**

**Please explain how the Army Corps took into account the DCAA memorandum in its appraisal of the contractor's estimating system.**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.

**What steps are being taken to ensure that the Army Corps takes into consideration the concerns expressed by other appropriate DOD components, such as DCAA, when it evaluates the past performance and present capability of offerors? Do you believe that any additional steps are needed?**

**Answer:** Under General Orders No. 3, dated July 9, 2002, Department of the Army Secretariat oversight of U.S. Army Corps of Engineers activities in foreign lands that are not directly in support of U.S. military forces overseas is assigned to the Assistant Secretary of the Army (Civil Works). However, Department of the Army oversight of the reconstruction of Iraq, including U.S. Army Corps of Engineers reconstruction activities, has been assigned to the Assistant Secretary of the Army (Acquisition, Logistics, and Technology). During my previous service as Assistant Secretary of the Army (Civil Works), I received periodic briefings on the Corps' work in Iraq, in order to remain aware of the situation.



## **Dam Safety**

**The Corps of Engineers is a leader in developing engineering criteria for safe dams, and conducts an active inspection program of its own dams. The Corps has also carried out inspections at most of the dams built by others – Federal, State and local agencies and private interests. Most Corps constructed flood protection projects are owned by sponsoring cities, towns, and agricultural districts, but the Corps continues to maintain and operate 383 dams and reservoirs for flood control. Recent press accounts have highlighted concerns for the condition, safety, and security of our national dam infrastructure.**

**What is your assessment of the safety and security of the current dam infrastructure managed by the Corps?**

**Answer:** The safety and security of U.S. Army Corps of Engineers dams is a major concern. The average age of Corps dams is approaching 50 years. Many of these dams have a relatively high risk for failure or not being able to function as designed, due to the likelihood of major or extremely large floods, seepage and piping through embankments and foundations, fatigue and fracture of gates, and other problems due to damage or deterioration. At a few of the dams (such as the Fern Ridge Dam in Oregon), normal operations currently are restricting because of dam safety problems that must be corrected. Other dams are being modified or restored using operation and maintenance funding.

The Corps has developed a dam safety strategic plan with specific goals, objectives and target dates to address these issues during the next five years. Dam safety projects and activities receive the highest priority in the President's Fiscal Year 2006 Budget for Civil Works.

**What do you view as the greatest challenges facing the Corps with respect to the sustainment and protection of our dams?**

**Answer:** The greatest challenge is to develop a cost-effective risk assessment and risk management policy for the Dam Safety Assurance, Major Rehabilitation and Major Maintenance programs. It is essential that the Corps accelerate the deployment of a Portfolio Risk Assessment in Fiscal Year 2005, in order to shape decisions in Fiscal Year 2006 and beyond.

Performing a Portfolio Risk Assessment will improve the Corps' ability to prioritize and justify dam safety investment decisions throughout the Corps. The Corps must balance vital dam safety requirements against competing needs, and a risk-based process provides valuable information for comparing the relative impacts of different types of dam safety problems, such as, damage due to earthquakes; damage due to extremely large floods; erosion damage to spillways; gates that

do not operate properly; seepage and piping damage to embankment dams and foundations.

### **Military to Civilian Conversion**

**The Army has committed to converting billets currently being performed by military personnel to civilian positions wherever possible in order to enhance combat capability and operational readiness.**

**What steps were taken during your previous tenure as Assistant Secretary of the Army for Civil Works to convert military billets in the Army Corps of Engineers, installations management, and other areas affecting the civil works mission of the Army to civilian position?**

**Answer:** There were no conversions of uniformed military billets associated with the Civil Works program to civilian positions during my previous service as Assistant Secretary. I understand that approximately 40 uniformed military billets associated with the Corps Military Program were converted to civilian positions during the last two Total Army Analysis (TAA) reviews.

**What additional steps, if any, are being taken to further substitute civilian workers for military personnel and what limitations should be observed in doing so?**

**Answer:** As far as I am aware, no steps are being taken at this time to substitute civilians for uniformed military associated with the Civil Works program. I understand that review of position requirements for the Military Program carried out by the Corps and decision-making on how best to fill them is a regular, ongoing process that takes into account the overall needs of the Army.

### **Public Works Critical Infrastructure Assurance**

**The U.S Army Corps of Engineers is the DOD lead component for Public Works Critical Infrastructure Assurance. In that role, it has a unique responsibility for working with the military services, other federal agencies, and commercial sector entities to ensure adequate public works (i.e. electricity, water, and public works facilities) are available to support the war fighter.**

**How have the Civil Works capabilities of the Army Corps of Engineers been used to support the Army and DoD in ensuring that these capabilities are available?**

**Answer:** In the Corps' role as the DoD lead component for Public Works Critical Infrastructure Assurance, a close partnership has been forged between the

Combatant Commanders, the Armed Services, and the commercial sector in identifying public works assets that support the Department of Defense. Working within the existing DoD Directive 3020, authorities for Critical Infrastructure Assurance Program, the Corps has identified critical assets not only within its national harbor and inland waterway networks, but also its dams and reservoir complexes supporting critical DoD Missions as well. The Corps has worked with DoD to identify whether vulnerabilities are evident and to identify means to assure these facilities remain available. The Corps shares its incident and monitoring activities with the DoD community and works closely with the other DoD CIP infrastructure sector leads. Further, the Corps has built strategic relationships with other Federal agencies, to share Critical Infrastructure expertise. For example, protective design experts have worked closely with the Bureau of Land Management in conducting vulnerability assessments and designing protective design solutions for their dams. The Office of the Secretary of Defense and the Headquarters of NORTHCOM are fully aware of the comprehensive Critical Infrastructure Assurance Program and rely upon the Corps for public works advice.

#### **Department of Homeland Security and Protection of Homeland Infrastructure**

**In a typical year, the Corps of Engineers responds to more than 30 Presidential disaster declarations, plus numerous state and local emergencies. Emergency responses usually involve cooperation with other military elements and the Department of Homeland Security in support of State and local efforts.**

**What is your view of the current level of coordination and support provided between the office of the Assistant Secretary of the Army for Civil Works and the Department of Homeland Security?**

**Answer:** During my previous service as Assistant Secretary, I had only occasional direct, personal interaction with the Department of Homeland Security.

However, the U.S. Army Corps of Engineers and the Department of Homeland Security have a very strong relationship and work closely on several major initiatives and projects. The Corps has three full-time liaisons at the Department of Homeland Security, one with the Coast Guard, one with the Science and Technology Directorate, and one with the Emergency Preparedness and Response Directorate, which includes the former Federal Emergency Management Agency. Close collaboration occurs in such areas as protection of critical infrastructure, research and development, and disaster response. The Corps constantly strives to strengthen and tailor the relationship to leverage resources and expertise, and create partnerships that benefit each other and

state and local agencies. In addition, the Office of the Assistant Secretary of the Army (Civil Works) and the U.S. Army Corps of Engineers have been involved in the development of Operation Safe Commerce, which is now led by the Department of Homeland Security.

**What processes and new programs have been implemented, or would you propose if confirmed, to address heightened security and resource protection issues in civil works projects?**

**Answer:** The Corps already is carrying out measures to protect its critical infrastructure through the Civil Works Critical Infrastructure Security Program. If confirmed, I will seek opportunities to support, through the appropriate programs, an increase in research and development for critical Infrastructure protection. I will promote a better understanding of the interdependencies and vulnerabilities of key infrastructure sectors, in part through modeling and simulations. If confirmed, I also would seek practical and cost effective means to rapidly reconstitute critical infrastructure if it fails or is attacked. This is an essential cornerstone to any critical infrastructure protection strategy.

**How would you characterize the effectiveness of the working relationships between the Department of the Army and federal, state, and local agencies responsible for crisis and consequence management?**

**Answer:** I am not in a position to authoritatively characterize the effectiveness of the Department of the Army's working relationships with other governmental entities responsible for crisis and consequence management. However, I can say that the U.S. Army Corps of Engineers has an excellent relationship with other local, state and federal agencies. With over 40 offices across the country, the Corps is involved in planning and training exercises on a routine basis. The Corps district offices and labs serve as centers of expertise for local officials in the areas of disaster planning, response and recovery.

In addition, the Corps strives to promote Public Private Partnerships. For example, The Infrastructure Security Partnership (the Corps was a founding board member of TISP), has a wide variety of members from local, state and federal governments, engineering associations and industry. TISP is involved in marshalling support of the engineering community in support of Global disasters such as the Indian Ocean Tsunami, to collaborating and facilitating knowledge and technology transfer in protecting the nation's critical infrastructure.

**What are the most significant problems, if any, that must be overcome in ensuring appropriate cooperation?**

**Answer:** Again, I would limit my answer to problems being faced by the U.S. Army Corps of Engineers. The Corps utilizes funding within the Flood Control and Coastal Emergency account, in order to maintain a “readiness status” that allows it to respond to any contingency at any time. I am pleased to say that the President’s Fiscal Year 2006 Budget recently transmitted to Congress includes a funding level for Flood Control and Coastal Emergencies that is adequate to keep the Corps’ capability available and ready.

### **Navigation and Environmental Restoration**

**In your responses to previous advance policy questions submitted in February 2003, you discussed the challenges facing the Army with respect to the execution of its navigation and environmental protection and restoration missions.**

**What do you now view as the greatest challenges facing the Army with respect to the execution of these missions?**

**Answer:** As I stated in 2002, the Army Corps of Engineers has a unique responsibility to balance environment and development in the public interest. If confirmed, I will preserve the integrity of Civil Works missions to protect and restore the environment and to promote national economic development by making environmental sustainability an integral part of all Civil Works activities.

The most significant challenge will be the ability to respond to the nation’s water resources needs in the face of scarce resources. Tough choices will need to be made. We are a nation at war, and our focus must be on ensuring our security at home and abroad.

The nation faces complex navigation and environmental challenges. One of the greatest challenges is to ensure that our analyses and decisions are backed up by firm science and technology. One example of how we are addressing this challenge is a new activity proposed in the President’s Fiscal year 2006 Budget for a Science and Technology Program supporting restoration of the Coastal Louisiana area. This program would provide a platform for data acquisition, management, model development, and analysis enhancing Louisiana Coastal Area Plan implementation and additional large-scale, long-term planning and project selection efforts.

Another major challenge is the need to continually seek balance and comity with and among states and other Federal agencies, which have equally important responsibilities in these areas. There is rarely a single, unanimously-supported answer to questions that arise in the planning and execution of navigation or environmental restoration projects. We must improve our ability to bring all interests to the table to address these questions collaboratively.

**Are there aspects of these missions which you believe should be transferred from the Department of the Army?**

**Answer:** No, I do not believe there are elements of these programs that should be transferred from the Department of the Army. In my view, the Corps has performed and continues to perform effectively in the navigation and environmental restoration arena, as well as in its other mission areas. The Corps is well equipped with its professional staff of economists, environmental scientists, and engineers to continue to work with our project sponsors, Federal and state resource agencies, the public, and other stakeholders to provide for the nation's water resources needs.

**Mission of the Army Corps of Engineers**

**If confirmed, how would you preserve the integrity of the Corps's environmental and civil works mission?**

**Answer:** From both Civil Works study and project construction perspectives, it is absolutely essential that the studies the Corps performs, and the projects the Corps recommends for construction, are formulated on a watershed basis, recognizing the full range of Federal and nonfederal, public and private activities in the watershed and bringing into the decision-making process all interested parties, many of which have their own authorities, independent goals, and resources which can contribute to a successful watershed management plan. Environmental and infrastructure development goals need to complement the goals under the Civil Works regulatory program.

**What are your views about the potential performance of regulatory functions presently performed by the Army Corps of Engineers by other governmental or non-military entities?**

**Answer:** Since the Rivers and Harbors Act of 1899, the Corps has been involved in protecting navigable waters, and as a result of the Clean Water Act enacted in 1972, the Corps role was expanded considerably to include wetlands and other waters of the United States. The Corps has a well-trained, experienced cadre of about 1,200 regulators and decades of experience. From a purely technical point of view, it could be argued that another agency or a non-governmental

organization could delineate wetlands and process permits. But in addition to extensive expertise, the Corps has a long history of working with multiple parties and stakeholders with the objective of achieving balance. The regulatory authorities granted to the Corps also complement its other water resources development missions, such as navigation and flood and storm damage reduction.

My view is that the Corps always should be neither a project proponent nor a project opponent. Their goal is to make fair and objective permit decisions, taking into account good science, available information, and the views of all interested parties. My experience is that the Corps culture is well-suited for taking on this tremendous responsibility – achieving the objectives set forth by Congress in statute while, at the same time, serving the regulated public.

### **Congressional Oversight**

**In order to exercise its legislative and oversight responsibilities, it is important that this Committee and other appropriate committees of the Congress are able to receive testimony, briefings, and other communications of information.**

**Do you agree, if confirmed for this high position, to appear before this Committee and other appropriate committees of the Congress?**

**Answer:** Yes.

**Do you agree, when asked, to give your personal views, even if those differ from the administration in power?**

**Answer:** As a political appointee, I consider it my duty to be an advocate for the policies of the Administration. However, I will always be prepared to provide my best professional judgment when asked.

**Do you agree, if confirmed, to appear before this Committee, or designated members of this Committee, and provide information, subject to appropriate and necessary security protection, with respect to your responsibilities as the Assistant Secretary of the Army for Civil Works?**

**Answer:** Yes.

**Do you agree to ensure that testimony, briefings and other communications of information are provided to this Committee and its staff and other appropriate Committees?**

**Answer:** Yes.